

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

GERALD CAIN II	§	
TDCJ-ID #812200	§	
v.	§	C.A. NO. C-04-502
	§	
GILBERT HERRERA, et al.	§	

**MEMORANDUM OPINION AND ORDER GRANTING DEFENDANT
DRETKE'S MOTION FOR SUMMARY JUDGMENT**

On August 9, 2005, the United States Magistrate Judge filed her Memorandum and Recommendation in this cause (D.E. 32). After ample opportunity, no objections have been filed by either party. This Court regards such omission as each party's agreement with and acceptance of the Magistrate Judge's findings of fact and conclusions of law. Having reviewed the pleadings on file, the Court finds no clear error in the Magistrate Judge's memorandum and recommendation. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). This Court adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, defendant Dretke's motion for summary judgment (D.E. 24) is GRANTED. Plaintiff's claims against Dretke are DISMISSED WITH PREJUDICE.

ORDERED this 30th day of August, 2005.



HAYDEN HEAD
CHIEF JUDGE